

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION**

JERRY M., et al.,

Plaintiffs,

v.

DISTRICT OF COLUMBIA, et al.,

Defendants.

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**Civil Action No. 1519-85 (IFP)
Judge Herbert Dixon**

STIPULATION REGARDING ORDER B

Pursuant to the Court's order of January 31, 2001, which established a schedule for compliance with the Consent Decree, the plaintiffs and defendants have held regularly scheduled meetings to discuss compliance with Consent Decree provisions concerning population, facilities, and implementation of Memorandum Order B (Order B).

The parties are not in agreement as to whether the defendants' current services and proposed action plans will bring them into compliance in these areas. The parties do agree, however, that subsequent to the August 27, 2001 hearing, they will in good faith engage in an intensive period of mediation, not to exceed 30 days, to identify with as much precision as possible the unresolved issues concerning defendants' compliance with Order B. This period of mediation will be facilitated by the Court Monitor.

Defendants will contract with a mutually agreed upon member of the original panel of experts to evaluate the unresolved issues and issue a report to the parties that sets forth the results of the evaluation, including whether defendants are in compliance with the unresolved Order B requirement(s) and, if not, provide an action plan to achieve compliance, accompanied by an implementation schedule. The expert shall consult with the parties during the evaluative process

as well as during the development of the action plan. The parties agree that the expert may have *ex parte* contact with the parties.

The parties agree that the expert's action plan and implementation schedule will be binding. Notwithstanding the above, defendants reserve the right to challenge in Court any provision of the action plan that exceeds the requirements of Order B. The defendants also reserve the right to challenge in Court any provision of the implementation schedule on the ground that it is unreasonable. The parties agree that any dispute as to a provision in the action plan and/or a provision in the implementation schedule must initially be presented to the Monitor for mediation within 15 days after receiving notice of the relevant action plan and/or implementation schedule provision. Defendants agree not to challenge an action plan provision as exceeding the scope of Order B if the provision is for an improved service that is equivalent or comparable to that required by Order B.

The parties agree that the defendants will provide the expert with the resources reasonably necessary to implement this joint agreement, including bringing in other individuals, if necessary. Any dispute regarding the expert's budget shall be submitted for resolution to the Monitor. The parties agree that the expert can, if she/he deems appropriate, issue reports on unresolved Order B requirements serially. Defendants agree to expedite implementation of any action plan provision that directly concerns a life safety issue. Furthermore, defendants agree to make staff and documents available to the expert upon request.

Pending the expert's development of the action plans, the defendants may issue short-term emergency contracts necessary to meet the needs of youth requiring shelter care or group home placement. Except for such short-term emergency contracts, the defendants agree not to award

any new contracts to providers for shelter and group homes prior to the expert's evaluation and recommendations on this issue. The defendants agree to issue new or amended solicitations for these services if recommended by the expert, provided the recommendation does not exceed the requirements of Order B.¹

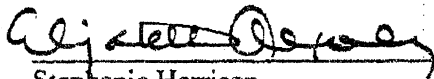
The parties agree that the expert will assess and advise them, in writing, of the number of securely confined committed youth that defendants' juvenile justice system should plan for. Pending the expert's evaluation of this issue, defendants will not announce publicly a decision or implement plans for a new facility to replace the current Oak Hill facility. Notwithstanding this provision, defendants may develop preliminary contingency plans.

The parties agree that the expert will review the defendants' compliance with the expert's action plans within three months after provision deadlines for implementation of the action plan(s) have passed. Subject to the challenges reserved by defendants in paragraph 3, the parties agree to be bound by the expert's determination as to whether consistent with applicable law compliance with the action plan(s) has been achieved, and if relevant, what additional actions are necessary to achieve compliance. If compliance is not achieved, the expert will continue to review compliance at three-month intervals for a period not to exceed one year. Prior to the expiration of this period, the expert may determine that the remedial process should end because further review and recommendations would not bring the defendants into compliance with the

¹ Solicitations have been issued for new shelter and group homes. The Office of Contracts and Procurements is currently reviewing the proposals.

expert's action plan(s) and would be futile. The parties agree that plaintiffs will not seek an order of contempt against defendants for any violation of Order B during the remedial process.

The parties agree that the expert will also review the status of compliance on two occasions subsequent to the time the expert determines that defendants are in compliance with the action plan(s). These two occasions will be no less than three months apart and no more than 6 months apart. The plaintiffs agree not to challenge the experts' determination that the defendants have achieved and sustained compliance with Order B if defendants remain in compliance, as reported by the expert, for two subsequent reviews.



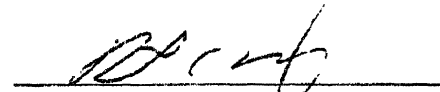
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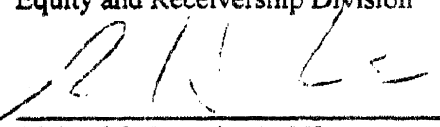
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Date: September 12, 2001

Date: 9/11/01



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Date: September 12, 2001